

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-CV-12253JLA

STEVEN MCDERMOTT and
STACEY MCDERMOTT,
Plaintiffs,

v.

FEDEX GROUND PACKAGE SYSTEMS, INC.,
T.S. PRUITT, ALLEGIANCE HEALTH CARE
INC., D. PONCE, E.W. WYLIE CORPORATION,
D.W. SMITH, ARSENBERGER TRUCKING
INC. J.T. FOSBRINK, RYDER TRUCK RENTAL,
LORRAINE ODZANA as ADMINISTRATRIX
OF THE ESTATE OF JAMES J. ODZANA,
SHORELINE TRANSPORTATION, INC.,
JACLYN PALETTA as ADMINSTRATRIX
OF THE ESTATE OF MARIO J. CASTRO,
Defendants.

**MOTION FOR ENTRY OF SEPARATE AND FINAL JUDGMENT PURSUANT TO
FEDERAL RULES OF CIVIL PROCEDURE RULE 54(b)**

Pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, Defendant and Defendant-in-Crossclaim, Jaclyn Paletta, as Administratrix of the Estate of Mario J. Castro ("Paletta"), hereby moves for entry of separate and final judgment as to the claims asserted by the Plaintiffs, Steven McDermott and Stacey McDermott ("Plaintiffs"), as well as the crossclaims asserted by the Defendant/Plaintiff-in-Crossclaim, FedEx Ground Package Systems, Inc. ("FedEx").

As reasons therefore, Paletta states as follows:

1. This is an action filed originally on October 26, 2004.
2. On December 22, 2006, the Plaintiffs filed a Second Amended Complaint adding

ten (10) defendants.

3. On April 6, 2007, FedEx Ground Package Systems, Inc. and T.S. Pruitt (collectively referred to as "Crossclaim Defendants") filed a joint answer to the Second Amended Complaint including crossclaims for contribution against all other defendants.

4. On July 23, 2007, Paletta filed a motion to dismiss for lack of personal jurisdiction along with other defendants and defendants-in-crossclaim on the basis of a lack of personal jurisdiction.

5. On September 13, 2007, following a lengthy hearing on the matter, this Court allowed the motion of Paletta to dismiss for lack of personal jurisdiction and so entered Docket Number 97 dismissing the claims.

6. As is set forth more fully in the Memoranda attached to this motion, under substantive Massachusetts state law, as well as the Federal Rules of Civil Procedure, a motion for entry of separate and final judgment in favor of Paletta is warranted and should be entered forthwith as there is not just reason for delay.

WHEREFORE, the Defendant, Jaclyn Paletta, as Administratrix of the Estate of Mario J. Castro, respectfully requests that this Court enter the following orders and make the following findings:

1. That the allowance of the motion to dismiss for lack of personal jurisdiction terminates all claims which could be asserted by the Plaintiff and Counterclaim Plaintiffs;

2. That there is no demonstrable reason for delay and that to expedite and simplify proceedings in the Federal Court, separate and final judgment should be entered in favor of Paletta; and

3. Pursuant to Federal Rules of Civil Procedure 54(b) this Honorable Court makes

the express determination that there is no just reason for delay and that separate and final judgment in favor of Jaclyn Paletta, as Administratrix of the Estate of Mario J. Castro be entered forthwith.

Respectfully Submitted,
JACLYN PALETTA as
ADMINISTRATRIX of the
ESTATE OF MARIO J. CASTRO,
By her attorneys,

/s/

Dated: October 3, 2007

James S. Franchek (BBO #177030)
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CERTIFICATE OF FULE 7.1 CONFERENCE AND OF SERVICE

I, James S. Franchek, Esq., hereby certify that on September 19, 2007 this document is being filed through the ECF system and, accordingly, is being sent electronically to the registered participants as identified on the Notice of Electronic Filing and a paper copy will be sent to any party indicated as a non-registered participant

/s/

James S. Franchek

Dated: October 3, 2007